

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-090261
FC 2005-090032

05/25/2007

HONORABLE CONNIE CONTES

CLERK OF THE COURT
C. Gauna
Deputy

IN RE THE MARRIAGE OF
MARY LYNN SCALISI

MARY LYNN SCALISI
3535 E KIMBALL CT
GILBERT AZ 85297

AND

VINCENT SCALISI

VINCENT SCALISI
875 W PECOS RD #2042
CHANDLER AZ 85228

DOCKET-FAMILY COURT-SE
FAMILY COURT SERVICES-CCC
FILE ROOM-SE
PARENTING SKILLS PROGRAM

DECREE/JUDGMENT

Courtroom 301-SE

10:25 a.m. This is the time set for Trial. Petitioner/Mother, Mary Lynn Scalisi, is present on her own behalf. Respondent/Father, Vincent Scalisi, is not present.

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A digital audio recording of this proceeding is being made by "For The Record" in lieu of a court reporter.

LET THE RECORD REFLECT that this matter was set for 10:00 a.m., and it is now 10:25 a.m. and Respondent/Father has failed to appear for today's proceeding and has not contacted the Court's staff.

THE COURT FINDS that this is a properly noticed proceeding and Respondent has failed to appear without good cause shown. The matter shall proceed in Respondent/Father's absence.

THE COURT NOTES that on March 9, 2007 the Court held a Resolution Management Conference at which Respondent/Father did not appear. At that time the Court entered certain temporary orders without prejudice.

THE COURT FURTHER NOTES that the Court signed an Order granting the stipulation of the parties re: property issues related to their home on March 26, 2007. Trial had been set for May 15, 2007 at 1:30 p.m. but due to a court calendar conflict was vacated and reset for today, May 25, 2007 at 10:00 a.m.

Mary Lynn Scalisi is sworn.

On the Court's own motion,

IT IS ORDERED consolidating cause number FC2005-090032 under cause number FC2007-090261 for all further proceedings.

Discussion is held regarding the Order of Protection obtained through the Gilbert Municipal Court.

LET THE RECORD REFLECT that Mother shows the Court a copy of the current Order of Protection obtained through the Gilbert Municipal Court. This Court's records do not indicate that the file has yet been transferred from the Gilbert Municipal Court. However, Mother states that a hearing was held on December 8, 2006 at Gilbert Municipal Court and the November 22, 2006 Order of Protection was modified to allow Father contact with the parties' minor child, Giana Scalisi.

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Jurisdictional testimony is given.

Based upon the testimony presented, the Court makes the following findings and orders:

I. DISSOLUTION OF MARRIAGE

THE COURT FINDS that at least one of the parties has been domiciled in the state of Arizona for more than 90 days immediately preceding the filing of the Petition; that the conciliation provisions of A.R.S. §25-381.09 and the domestic relations education provisions of A.R.S. §25-352 either do not apply or have been met; that the marriage is irretrievably broken and there is no reasonable prospect for reconciliation. The Petitioner/Mother is not now pregnant.

To the extent it has jurisdiction to do so, the Court has considered and made provisions for maintenance and disposition of property and, where applicable, support, custody, and visitation.

IT IS ORDERED that the marriage heretofore existing between the parties is dissolved, and each party is returned to the status of a single person effective upon the signing and filing of this Decree.

II. CUSTODY AND PARENTING TIME

There being evidence of significant domestic violence as well as a significant history of domestic violence, which is contrary to the best interests of the child,

THE COURT FINDS that the safety and well being of the child, Mother, and Mother's two additional daughters who share the same home is of primary importance.

THE COURT ALSO FINDS that Father has failed to appear today and as such cannot rebut the presumption that an award of custody to him is contrary to the child's best interest. Also, because he has failed to appear he cannot prove satisfactorily to the Court that parenting time will not endanger the child or significantly impair the child's emotional development.

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Indeed, the Court finds that parenting time is likely to seriously endanger the child's physical, mental, moral or emotional health. As such,

IT IS ORDERED affirming, as a final order, the Court's minute entry ruling dated March 9, 2007 awarding Mother sole legal custody of the minor child, Giana Scalisi born October 12, 2001.

IT IS FURTHER ORDERED that Father shall not be entitled to exercise parenting time unless and until he completes the following services:

1. Father shall attend and complete the Parent Information Program within 60 days of the date of this order. Upon completion of the class, Father shall file the original Certificate of Completion with the Clerk of Court to demonstrate compliance with this order. Failure to comply with this order shall preclude a party from pursuing modification of Court orders
2. Father shall separately attend and complete a Parental Conflict Resolution class within 60 days of the date of this order. Father is directed to contact Conciliation Services at (602) 506-3296 to register for a class. Upon completion of the class, Father shall file the original Certificate of Completion with the Clerk of Court to demonstrate compliance with this order.
3. Father shall attend and complete a program of intervention for perpetrators of domestic violence within 90 days of the filing date of this minute entry order. Upon completion of the class, Father shall file the original Certificate of Completion with the Clerk of Court to demonstrate compliance with this order, and he shall provide a copy of the Certificate of Completion to Mother. Father may contact Community Information and Referral (602-263-8856) to obtain information about classes in his/her area.
4. Father shall abstain from alcohol or illegal substances during parenting time with the minor child and for 24 hours prior to parenting time.
5. Father shall not violate the terms of any existing Order of Protection issued in favor of Mother, the child, or Mother's other two other daughters.

THE COURT FINDS that the child could potentially be safe with Father having supervised parenting time through the Parenting Skills Program. As such, although the Court is

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inclined to deny Father all parenting time, the Court also recognizes that if Father desires to spend any time with Giana he may pursue such time by seeking one hour of parenting time supervised through the Parenting Skills program. Unless the parties can agree otherwise, or unless the supervisor at Parenting Skills requires another date and time, Father may have supervised parenting time with Giana every Monday at 5:00 p.m. for one hour at his expense.

III. CHILD SUPPORT

Discussion is held regarding child support.

The Court prepares a *Child Support Worksheet*, which incorporates the Court's findings and is filed with the Clerk of the Court herein.

IT IS ORDERED that Father shall pay to Mother as and for child support the sum of \$794.63 per month, payable through the Support Payment Clearinghouse by Wage Assignment, effective June 1, 2007.

IT IS FURTHER ORDERED affirming as final orders the temporary orders entered by minute entry on March 9, 2007, and directing the Clearinghouse to prepare an arrearage calculation for both child support and spousal maintenance. Father shall pay \$100.00 per month towards support arrearage.

IT IS FURTHER ORDERED approving and settling formal written *Order of Assignment* signed by the Court on May 25, 2007, and filed (entered) by the clerk on May 25, 2007.

IT IS FURTHER ORDERED affirming that at any time an *Order of Assignment* is not paying the child support obligation in full, Father shall make full and timely payments directly to the Support Payment Clearinghouse in accordance with the instructions for making support payments through the Clearinghouse attached hereto.

If payments are made directly to the person who is to receive the support, the payments may be considered a gift and no credit will be given towards the support obligation.

Any change in the paying party's employment and any change in the residential address of either party **must** be submitted to the Clerk's office, in writing, within ten (10) days of the change

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[A.R.S. § 25-322(C)]. Failure to notify the Clerk's office of any change may be considered contempt of Court.

IT IS FURTHER ORDERED that every 24 months hereafter the parties shall exchange financial information, including tax returns, financial affidavits, and earnings statements.

IT IS FURTHER ORDERED that Father shall complete and submit to the Court the *Current Employer Information* form attached hereto.

IT IS FURTHER ORDERED affirming that Father shall provide and maintain medical insurance for the benefit of the minor child, and he shall provide an insurance card and claim filing information/forms to Mother. All healthcare expenses incurred for the health and protection of the minor child not covered by insurance shall be paid by the parties in proportion to their incomes as reflected on the most recent *Child Support Worksheet*, currently 90 percent by Respondent/Father and 10 percent by Petitioner/Mother.

The parties shall account to one another for the children's uncovered healthcare expenses in accordance with Section 9.A of the Arizona Child Support Guidelines, which provides that a party seeking reimbursement for uninsured medical, dental, or vision costs shall make request for reimbursement to the other party within 180 days after the date the services occur and shall provide receipts or other evidence of payments actually made upon request of the other party. The party responsible for reimbursement must pay his or her share, or make acceptable payment arrangements, within 45 days after receipt of the request.

IT IS FURTHER ORDERED affirming the minute entry order dated March 9, 2007 that Father shall be entitled to utilize the federal tax exemption applicable to *the parties' minor child* for all federal and state income tax purposes *in four of every five tax years, commencing in tax years 2007, 2008, 2009 and 2010.*

IT IS FURTHER ORDERED affirming the minute entry order dated March 9, 2007 that Mother shall be entitled to utilize the federal tax exemption applicable to *the parties' minor child* for all federal and state income tax purposes *in one of every five tax years, commencing in tax year 2011.*

The right to claim the dependency exemption is conditioned upon payment by December 31 of the total Court-ordered child support obligation for the current calendar year and any Court-ordered arrearage payment due during the calendar year for which the exemption is to be

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claimed. If these conditions have been met, then Mother shall execute the necessary Internal Revenue Service form to transfer the exemption. If Father has paid the current support but has not paid the Court-ordered arrearage payments, then Father shall not be entitled to claim the exemption.

IT IS FURTHER ORDERED that if Father is not current in the total Court-ordered child support obligation for the current calendar year and/or any Court-ordered arrearage payment due during the calendar year for which the exemption is to be claimed but still claims the child as an exemption for tax purposes, Father shall pay directly to the Support Payment Clearinghouse 100 percent of any and all tax refunds that Respondent/Father receives, which shall be applied first towards his current child support obligation, his current spousal maintenance obligation, and then towards any arrearage.

IV. SPOUSAL MAINTENANCE

THE COURT FINDS that in exchange for the award of 100 percent of the equity in the former marital home to Mother, Mother agrees to waive her claim to spousal maintenance.

Accordingly,

IT IS ORDERED that spousal maintenance is not awarded to either party.

V. PROPERTY DIVISION

THE COURT FINDS that in exchange for the award of 100 percent of the equity in the former marital home to Mother, Mother agrees to waive her claim to spousal maintenance.

Accordingly,

IT IS ORDERED awarding to Petitioner/Mother as her sole and separate property the residence at 3535 E. Kimball Court, Gilbert, Arizona 85297 subject to all liens and debts thereon and awarding her 100 percent of the equity therein. Petitioner/Mother shall hold Respondent/Father harmless from the debts thereon, and she shall refinance the related home debt to remove Respondent/Father's name from further responsibility within six months of the signing of this minute entry.

THE COURT FURTHER FINDS that all personal property has been divided.

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IT IS ORDERED awarding to Petitioner/Mother as her sole and separate property, subject to any liens or encumbrances thereon, all personal property currently in her possession without further offset, credit or equalization payment.

IT IS FURTHER ORDERED awarding to Respondent/Father as his sole and separate property, subject to any liens or encumbrances thereon, all personal property currently in his possession without further offset, credit or equalization payment.

IT IS FURTHER ORDERED awarding to Respondent/Father the IRA account through Chasebank and his pension through Christie's of New York subject to Mother's 50 percent share in each of those retirement assets from the date of the marriage on August 15, 1998 through service of the Petition of Dissolution of Marriage on January 19, 2007.

IT IS FURTHER ORDERED that the parties shall use a Qualified Domestic Relations Order (QDRO) to divide Father's retirement accounts, in accordance with this Order.

IT IS FURTHER ORDERED that the parties shall agree within 30 days on the name of an expert to draft a QDRO. If they are unable to agree, they are each to submit to the Court two names of persons qualified to perform a QDRO and the Court shall decide for them. Both parties shall equally share the cost of the QDRO.

IT IS FURTHER ORDERED that the \$40,000.00 loan authorized by this Court on March 26, 2007 against Respondent/Father's IRA with Chasebank shall be applied equally against both parties.

VI. COMMUNITY DEBT

IT IS ORDERED affirming the minute entry order dated March 9, 2007 that the parties shall be responsible (50/50) for payment of the remaining community debt existing as of the date of service of the Petition for Dissolution of Marriage on January 19, 2007 not otherwise addressed by these court orders.

IT IS FURTHER ORDERED affirming that each party shall be responsible for and pay the debt incurred by either party in his or her own name since service of the Petition for Dissolution of Marriage on January 19, 2007 except as otherwise ordered herein, specifically Respondent/Father's Chase loan.

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IT IS FURTHER ORDERED awarding to Petitioner/Mother the 2003 Jaguar X-Type vehicle, subject to all liens and debts thereon, with no further offset, credit or equalization payment.

IT IS FURTHER ORDERED awarding to Respondent/Father the Lexus vehicle, subject to all liens and debts thereon, with no further offset, credit or equalization payment.

VII. RESTORATION OF NAME

Upon request of Petitioner/Mother,

IT IS ORDERED restoring Petitioner/Mother to her former name of Mary Lynn Rana.

IT IS FURTHER ORDERED directing the Docketing Department of the Office of the Clerk of the Superior Court to change the name on the caption of the case for Petitioner/Mother from Mary Lynn Scalisi to Mary Lynn Rana immediately.

IT IS FURTHER ORDERED signing this minute entry as a formal Order of the Court on this the 20th day of June 2005 pursuant to Rule 58, Arizona Rules of Civil Procedure.

11:40 a.m. Matter concludes.

FILED: Child Support Worksheet, Modified Order of Assignment, Packet from Gilbert Police Department oca06-000019229 re: an incident reported November 21, 2006 at 2:23 p.m.; Packet from Gilbert Police Department oca07-000008452 re: an incident reported May 16, 2007 at 6:12 a.m.; Order of Protection and Modified Order of Protection packet from Gilbert Municipal Court; Catholic Healthcare West documents; financial document packet.

/S/ HONORABLE CONNIE CONTES

JUDICIAL OFFICER OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/ssc/sschome.html>.

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Attachments:

VINCENT SCALISI: SE Non IV-D Payment Instructions, Current Employer Information